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Tracy Wallace

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Attorney Docket No.9013-42

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Proud et al.
Serial No.: 10/019,198
Filed: International Filing Date: June 21, 2000
For: *Use of Peptides*

Submittal of:

Cover page (1 page)
Response (3 pages)

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In re: Proud et al.
Application No.: 10/019,198
International Filing Date: June 21, 2000
For: *Use of Peptides*

Confirmation No.: 1487
Examiner Liu, S.
Group Art Unit 1653

VIA FACSIMILE to 571-273-8300
Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

November 14, 2005

RESPONSE

Sir:

This is responsive to the October 14, 2005 Office Action issued regarding the above-referenced patent application.

RESTRICTION OF CLAIMS

The Office Action states that the application contains the following groups of inventions.

Group I, claims 11-15 and 16-18, drawn to a method of inducing programmed cell death, comprising administering to a subject a peptide.

Group II, claims 19-22, drawn to a pharmaceutical composition comprising the peptide..

Group III, claim 15, drawn to a method inducing programmed cell death, comprising administering to a subject a polynucleotide encoding the peptide.

Applicants provisionally elect Group I (claims 11-15 and 16-18) with traverse. The traversal is on the basis that pursuant to PCT Rules 13.1 and 13.2, the application shall "relate to one invention only or to a group of inventions so linked as to form a single general inventive concept" and that the requirement for unity of invention is fulfilled "only when there is a technical relationship among those inventions involving one or more of the same or corresponding technical features," which are those

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features "that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art."

Upon the application of these rules, it can be reasonably concluded that claims 11-22 do form a single general inventive concept, on the basis that all of the claims recite the peptide of claim 1 and describe compositions and methods of use of this peptide as well as methods of use of a polynucleotide encoding this peptide. Thus, the special technical feature that unites all of the pending claims is this peptide.

Applicants note that the Office Action states that claims 19-22 are allegedly obvious over Haghigat et al. on the basis that Figure 3 discloses a composition comprising a polypeptide of eukaryotic initiation factor 4G (eIF4G) that comprises an eIF4E binding domain having amino acids residues 569-580, which allegedly read on the instant SEQ ID NO:1 (KKRYDEFLLGF), as evidenced by Hentze et al. The Office Action further states that Haghigat et al. teaches a composition comprising the EIF4G polypeptide and buffer A comprising Tris-HCl, KCl, dithiothreitol and glycerol, which buffer is allegedly considered a pharmaceutically acceptable carrier. On the basis of these disclosures, the Examiner contends that the claimed composition does not constitute a special technical feature linking all claims, as defined by PCT Rule 13.2 and 37 C.F.R. § 1.475(a), as a single contribution over the art and that therefore a holding of lack of unity is proper.

Applicants respectfully point out that claims 19-22 all recite a pharmaceutical formulation comprising a peptide of this invention and a pharmaceutically acceptable carrier. The Examiner alleges that Buffer A, which is described in the Haghigat et al. reference as a dialysis buffer for purification of a recombinant protein in an eluate buffer after immunopurification on an affinity column, is a pharmaceutically acceptable carrier. However, neither the Haghigat et al. reference nor the Office Action provides any teaching or suggestion of the use of this buffer, which comprises Tris-HCl (pH 7.5), KCl, EDTA, dithiothreitol and glycerol, as a pharmaceutically acceptable carrier in a pharmaceutical formulation. Thus, the Haghigat et al. reference fails to render claims 19-22 obvious and the holding of lack of unity of invention is not proper for these claims. Therefore, the claims meet the requirement for unity of invention as set forth in accordance with PCT Rules 13.1 and 13.2 and they should all be searched and examined together. Applicants respectfully request that the

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present groupings be withdrawn so that all of the pending claims of this application can be searched and examined together.

The Examiner is encouraged to contact the undersigned directly if such contact will expedite the search and examination of the pending claims and their allowance to issue.

No fee is believed due with this response. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

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Tracy Wallace